

GEORGE S. CARDONA  
Acting United States Attorney  
CHRISTINE C. EWELL  
Assistant United States Attorney  
Chief, Criminal Division  
DANIEL A. SAUNDERS (Cal. Bar #161051)  
daniel.saunders@usdoj.gov  
Assistant United States Attorney  
Violent & Organized Crime Section  
1500 United States Courthouse  
312 North Spring Street  
Los Angeles, California 90012  
Telephone: (213) 894-2272  
Facsimile: (213) 894-3713

Attorneys for Plaintiff  
United States of America

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA	)	No. CR 07-134-DDP
	)	
Plaintiff,	)	
	)	
v.	)	<u>GOVERNMENT'S OPPOSITION TO EX</u>
	)	<u>PARTE APPLICATION FOR ORDER</u>
	)	<u>DISCLOSING IN CAMERA FILINGS</u>
SONNY VLEISIDES, et al.,	)	<u>TO COUNSEL FOR DEFENDANT</u>
	)	<u>SONNY VLEISIDES</u>
Defendants.	)	
	)	

Plaintiff United States of America, by and through its counsel of record, Assistant United States Attorney Daniel A. Saunders, hereby opposes defendant Sonny Vleisides' ex parte application for an order disclosing the government's recent in camera filings in this case.

The government's submission of material to the district court in camera for a determination of discoverability is wholly proper. See Pennsylvania v. Ritchie, 480 U.S. 39, 59-60 (1985) (recognizing that a court's in camera review of materials that are arguably discoverable to determine whether the materials are,

1 in fact, discoverable is sufficient to protect a defendant's due  
2 process rights); United States v. Crowley, 720 F.2d 1037, 1045  
3 n.5 (9th Cir. 1991) (recognizing that, under such circumstances,  
4 "[a]n in camera inspection is a sound approach"); United States  
5 v. Jones, 612 F.2d 453, 456 (9th Cir. 1979) (prosecution asserted  
6 that a document requested by the defense did not contain Brady  
7 material; court followed proper procedure where it conducted an  
8 in camera inspection and excised the irrelevant portions of the  
9 document); see also United States v. Chavez-Vernaza, 844 F.2d  
10 1368, 1375 (9th Cir. 1988) (district court did not abuse its  
11 discretion by conducting in camera review of presentence report  
12 to see if it contained discoverable Brady material); United  
13 States v. Miller, 771 F.2d 1219, 1231 (9th Cir. 1985) (trial  
14 court should conduct in camera review of potential Jencks Act  
15 materials<sup>1</sup>); United States v. Dupuy, 760 F.2d 1492, 1501-03 (9th  
16 Cir. 1985) (trial court should have conducted in camera review  
17 after prosecutor told the court that her notes contained Brady  
18 material); cf. United States v. Skilling, 554 F.3d 529, 578 (9th  
19 Cir. 2009) (district court's ruling, after in camera review, that  
20 material is not discoverable is reviewed only for clear error).

21 The purpose of in camera inspection is "not to provide a  
22 general discovery device for the defense," but rather "to  
23 supplement the Government's assessment of materiality with the  
24 impartial view provided by the trial judge." United States v.

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26 <sup>1</sup> Indeed, with respect to potential Jencks Act material,  
27 in camera review is statutorily authorized as the proper  
28 procedure. 18 U.S.C. § 3500(c); see United States v. Wolfson, 55  
F.3d 58, 60 (5th Cir. 1995) (discussing proper procedure for in  
camera review).

1 Leung, 40 F.3d 577, 583 (2d Cir. 1994). Thus, "criminal  
2 defendants have no constitutional right to know the contents of  
3 Government files in order to present arguments in favor of  
4 disclosure." Id.; see Wolfson, 55 F.3d at 60 ("To the extent  
5 that there is a question as to the relevance or materiality of a  
6 given group of documents, the documents are normally submitted to  
7 the court for in camera review. Such review preserves the  
8 confidentiality of those documents that the court determines need  
9 not be disclosed to the defendant."). The process and entire  
10 purpose of in camera review would be frustrated were defendants  
11 allowed to obtain materials submitted to the district court,  
12 which the court has determined not to be discoverable, simply by  
13 applying for disclosure of the government's in camera submission.

14 For the foregoing reasons, defendant Vleisides' ex parte  
15 application for an order disclosing the government's in camera  
16 filings should be denied.

17 DATED: September 11, 2009

18 Respectfully submitted,

19 GEORGE S. CARDONA  
20 Acting United States Attorney

21 CHRISTINE C. EWELL  
22 Assistant United States Attorney  
23 Chief, Criminal Division

24 /s/  
25 DANIEL A. SAUNDERS  
26 Assistant United States Attorney  
27 Violent & Organized Crime Section

28 Attorneys for Plaintiff  
UNITED STATES OF AMERICA